REMARKS

Reconsideration of this application as amended is respectfully requested.

In the Office Action dated February 24, 2006, claims 1-3 and 5-24 were pending. Claims 1-3 and 5-24 were rejected. In this response, claims 1-3, 5-24 remain pending. Claims 1, 6-7, 11-12, 14-17, and 19-22 have been amended. No claims have been canceled. No claims are added. Support for the amendments can be found throughout the specification as filed. No new matter has been added.

Amendments

Rejections under 35 U.S.C. § 112

Claims 1-3, 6, 11-14, 16-19 and 21-24

Claims 1-3, 6, 11-14, 16-19 and 21-24 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In view of the foregoing amendments, it is respectfully submitted that the rejection has been overcome.

Claims 7, 15 and 20

Claims 7, 15 and 20 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In view of the foregoing amendments, it is respectfully submitted that the rejection has been overcome.

Rejections under 35 U.S.C. § 103(a)

Claims 1-3 and 5-24

Claim 1-3 and 5-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,650,640 to Muller et al. (hereinafter "Muller") in view of US Patent No. 6,005,841

to Kicklighter (hereinafter "Kicklighter"). Applicant hereby reserves the right to swear behind Muller. However, Applicant respectfully submits that claimed in claims 1-3 and 5-24, as amended, are patentable over the cited references.

Specifically, for example, independent claim 1, as amended, includes the limitations:

> "in response to a state change message, performing a set of transitioning actions
>> to transition each of the applications between one of a plurality of active states on an active card of the network cards and one of a plurality of standby states on a standby card of the network cards, wherein the plurality of active states comprises an active ready state, a quiescent state, and a no-provisioning state, the set of transitioning actions including:
>>> flushing data to a disk,
>>> synchronizing RAM with a disk database,
>>> synchronizing RAM with the standby card, and
>>> building RAM from the active card,
>> wherein all necessary commands required by each of the applications are loaded into a memory of the active card for executing each of the applications during the active ready sate,
>> wherein memories of the active card and the standby card are synchronized during the quiescent state, and
>> wherein at least a portion of network management requests for configuring the active network card are rejected during the no-provisioning state; and
> subsequent to the transitioning, sending a state change confirmation message"

> (emphasis added)

Applicant's amended claim 1 includes the limitations of sending a state change confirmation message after performing a set of transitioning actions including flushing data to a disk, synchronizing RAM with a disk database, synchronizing RAM with a standby card and building RAM from an active card to transition an application from one state to another state in response to a state change message. It is respectfully submitted that none of the cited references, individually or in combination, discloses or suggests the above noted limitations.

Rather, Muller teaches a procedure to receive a packet from a network and transfer it to a host computer system (Muller, col. 12, lines 33-36). Muller also describes the procedure as a series of sequential states (Muller, Fig. 1B). Apparently, each state in Muller corresponds to a procedure step. Transition from one state to another state occurs as when one procedure step followed by another in sequence. Thus, no message is received to start a state transition and no

state transitioning action is needed. Although Muller mentions the term "state", Muller is completely silent about performing a set of transitioning actions to transition an application from one state to another state in response to a state change message.

Kicklighter, on the other hand, provides a redundancy arrangement for use in conjunction with telecommunication switches (Kicklighter, col. 2, lines 5-7). Kicklighter teaches a packet engine card to assume one of three possible operation states, single, active or standby (Kicklighter, col. 6, lines 19-21). Kicklighter also describes an active device establishes a communication link to a standby device and the standby device tracks the operating status of the active device by experiencing the same events in the same sequence through the communication link (Kicklighter, col. 2, lines 14-16, lines 31-35). Apparently, in Kicklighter, there is no change in operation states as the standby device continuously tracks the active device. Instead, Kicklighter discusses the standby device issues a task message to cause the operational status to change from standby to single after the device receiving a BECOME_SINGLE message (Kicklighter, col. 8, 45-55). Kicklighter also discloses a device changing its operational status from single to active on receiving a message (Kicklighter, col. 8, lines 63-67). However, nowhere does Kicklighter disclose or suggest sending a state change confirmation message after performing a set of transitioning actions including flushing data to a disk, synchronizing RAM with a disk database, synchronizing RAM with a standby card and building RAM from an active card to transition an application from one state to another state in response to a state change message.

In addition, it appears that Kicklighter's active and standby cards are constantly synchronized, which typically requires greater bandwidth. In contest, the present invention as claimed only synchronizes between an active card and a standby card when the operating state of the active card is changed. As a result, less bandwidth and resource are needed.

Furthermore, in Muller, a procedure is described by a sequence of states (Muller, Fig. 1B). Clearly each state in Muller corresponds to a procedure step. Thus, no message is received to start a state transition and no message is sent after the state transition. Kicklighter, however, teaches three operational states where transition between states is determined by three types of messages, BECOME_ACTIVE, BECOME_STANBY, and BECOME_SINGLE issued from a

CPU/matrix card or nodal switch (Kicklighter, col. 6, lines 45-48, col. 43-47). However, nowhere does Kicklighter disclose a state change without receiving a message. Therefore, Muller and Kicklighter teach away from each other.

In addition, Kicklighter is in a field related to a redundancy arrangement for use in connection with programmable telecommunication switches (Kicklighter, col. 1, lines 19-12). Muller, on the other hand, relates to a Network Interface Circuit for processing communication packets exchanged between a computer network and a host computer system (Muller, col. 1, lines 50-54). Muller discloses equipment and methods for increasing the efficiency of processing of transferring packets received from a network (Muller, col. 7, lines 26-30). There is neither suggestion nor motivation to combine Kicklighter and Muller.

Office Action asserts "motivation may also be found in the knowledge generally available to one of ordinary skill in the art" (Office Action, page 15). Applicant respectfully traverses. As discussed above, there is no suggestion within Muller and Kicklighter to combine with each other. It appears that such an assertion can only be found based on the impermissible hindsight of Applicant's own disclosure.

As such, not only do Muller and Kicklighter not disclose, individually or even in combination, the above noted limitations, but the references, considered as a whole, do not suggest the desirability and thus the obviousness of making the combination.

In order to render a claim obvious, each and every limitation of the claim must be taught by the cited references. Therefore, in view of the foregoing remarks, it is respectfully submitted that independent claim 1, as amended, is patentable over Muller in view of Kicklighter.

Similarly, independent claims 6-7, 12, 14-15, 17, 19-20 and 22 include limitations similar to those recited in claim 1, as amended. Thus, for the reasons similar to those discussed above, it is respectfully submitted that independent claims 6-7, 12, 14-15, 17, 19-20 and 22 are patentable over the cited references.

Given that claims 2-3, 5, 8-11, 13, 16, 18, 21 and 23-24, as amended, depend on the above independent claims, it is respectfully submitted that claims 2-3, 5, 8-11, 13, 16, 18, 21 and 23-24, as amended, are patentable over the cited references.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of the claims 1-3 and 5-24, as amended, under 35 U.S.C. § 103(a) over the combination of Muller and Kicklighter.
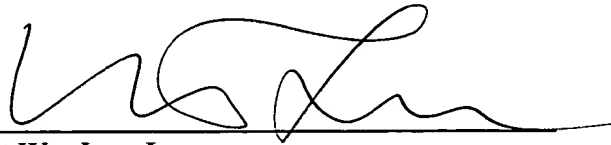
CONCLUSION

In view of the foregoing, Applicant respectfully submits the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

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